IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

MONDAY, THE 15TH OCTOBER 2007 / 23RD ASWINA 1929

WP(C).No. 16336 of 2006(T)

PETITIONERS:
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1. P. GANGADHARAN, S/O. KARAPPU,
OPERATOR, KERALA WATER AUTHORITY,
P.H. DIVISION, EDAPPAL.

2. DIVAKARAN M., S/O. KUMARANKUTTY,
OPERATOR, KERALA WATER AUTHORITY,
P.H. DIVISION, EDAPPAL.

3. P.V. SASIKUMAR, S/O. P. PARAMESWARAN
NAIR, OPERATOR, KERALA WATER AUTHORITY,
P.H. SECTION, EZHUVATHURUTHY, NARIPARAMBA.

4. M.T. MOHANAN,
S/O. LATE M. DAMODARA MENON,
OPERATOR, KERALA WATER AUTHORITY,
P.H. SECTION II, EDAPPAL.

5. A.S. KRISHNA KUMAR,
OPERATOR, KERALA WATER AUTHORITY,
P.H. DIVISION, EDAPPAL.

BY ADV. SRI.M.R.GOPALAKRISHNAN NAIR
SRI.K.KRISHNANKUTTY NAYAR

RESPONDENTS:
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1. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT
WATER RESOURCES (WSD) DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE KERALA WATER AUTHORITY,
REPRESENTED BY ITS MANAGING DIRECTOR,
JALA BHAVAN, THIRUVANANTHAPURAM.

BY ADV. SRI.C.UNNIKRISHNAN, SC, KWA
GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 16336/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE ORDER NO. KWA/JB/E3/10911/2003 DT. 28/10/2005 BY THE R2.

EXT.P2. COPY OF THE CIRCULAR NO. KWA/HO/LS3/10956/86 DT. 22/12/87 OF THE R2.

EXT.P3. COPY OF THE GO MS NO. 5/91/LAD DT. 5/1/91.

RESPONDENT'S EXHIBITS

NIL.

True copy

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V. GIRI ,J.

WP(C).NO.16336 of 2006

Dated this the 15th day of October, 2007

JUDGMENT

The petitioners are working as Operators in the Water Authority. Their grievance is that notwithstanding their completion of 5 years of NMR service in 1995, they have been absorbed in the regular establishment only with effect from 21.10.2005. Reference in this regard is made to Ext.P1 order by which the Water Authority decided to regualrise the services of other similarly situated persons with effect from 21.10.2005, the date on which the Government had accorded sanction to the Water Authority. According to the petitioner, similarly situated persons were accorded sanction by the Government for regularisation of their service with effect from the date on which their services were regularised by the Authority and therefore there is no reason why the regularisation of the petitioners' services should not take effect from 1995 when they had actually completed 5 years of NMR service.

2. In the counter affidavit filed by the Water Authority, it is stated that there was a general decision to absorb all NMR hands to regular establishment on completing 5 years of NMR service, but separate and specific decisions were taken by the

Government, as and when regularisation orders were issued. According to the Water Authority, the petitioners were granted regularisation with effect from 21.10.2005.

3. I have heard the learned counsel for the petitioners, the learned Standing Counsel for the Water Authority and the learned Government Pleader.

4. In my view, if similarly situated persons have been granted regularisation with reference to the date on which such NMR workers had completed 5 years of NMR service, then there is no reason why the petitioners should be denied such benefit. I make it clear that I am not expressing any final opinion on the merits of the contentions raised by the petitioners. But I am of the view that the petitioners' claim for regualrisation as NMR workers with reference to the date on which they had completed 5 years of NMR service must be considered by the Government and the Government should hear the petitioners in this regard.

5. The writ petition is disposed of directing the petitioners to approach the first respondent, with a representation raising the claim as raised by them in this writ petition, within a period of three weeks from the date of receipt of a copy of this judgment. If such representation is so received, the first respondent shall, after hearing the petitioner, take a decision on the claim made by the petitioners for regularisation as NMR workers with reference to the

date on which they had completed 5 years of NMR service, within a period of three months from the date of receipt of a copy of the representation.

The Government shall take such a decision untrammeled by any decision already taken by them as per GO(MS)No.53/05/WRD dated 21.10.2005 on the basis of which Ext.P1 order is stated to have been issued.

V. GIRI, JUDGE

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